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OFFICE OF PETITIONS

In re Patent No. 5,738,192

Issue Date: April 14, 1998

Application No. 08/715,439

Filed: September 18, 1996

Attorney Docket No. :

REQUIREMENT FOR INFORMATION

This is a decision on the renewed petition under 37 CFR 1.378(b), filed March 4, 2011, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a reply responding to the issues noted in more detail below must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b).

Petitioner contends that the above-captioned patent should be reinstated, in that the delay was unavoidable.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing a renewed petition to accept unavoidably delayed payment of a maintenance fee. In this instance, the fee required under 37 CFR 1.17(f) is \$400.00.

Extensions of time under 37 CFR 1.136(a) were permitted in and in response to the October 22, 2010 petition decision no extension of time fees were received. The response was received March 4, 2011 requiring a 3 months extension of time fee of \$1270.00. If applicant can qualify as a "small entity" and does so prior to or together with the payment of the fee, the fee will be one-half of the amount indicated. See 37 CFR 1.27.

The petition in the above-identified application was not accompanied by payment of the required fees totaling \$1905.00. No consideration on the merits can be given that petition until the required fee is received.

Clarification of this matter is required were intended to accompany a petition related to U.S. Patent No. 5,170,942, they must be resubmitted along with a properly captioned petition and

facts appropriate to that file. Petitioner should note that the merits of any forthcoming petition would not be addressed absent a clear and unambiguous fee payment or authorization. It is further noted that a petition under 37 CFR 1.377 lies when a timely (i.e. during the window or grace period) payment is proffered to the USPTO, but not applied to the patent in question. 37 CFR 1.378 applies when the applicable fee was not proffered prior to expiry, and reinstatement is necessary.

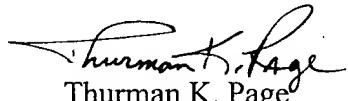
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION  
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By Hand: U. S. Patent and Trademark Office  
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Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at (571) 272-0602.

  
Thurman K. Page  
Petitions Examiner  
Office of Petitions